IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 19TH SEPTEMBER 2006 / 28TH BHADRA 1928

Bail Appl..No. 5459 of 2006

CRIME NO.219/2006 OF CHERUTHURUTHY POLICE STATION

PETITIONER/2ND ACCUSED:

MOOSA, AGED 41 YEARS,
S/O. MOIDUTTY, KAKKADATH HOUSE, DESAMANGALAM,
THALAPPALLY TALUK, THRISSUR DISTRICT.

BY ADV. SRI.M.B.PRAJITH

RESPONDENTS: COMPLAINANT:

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1. THE STATION HOUSE OFFICER,
ERUMAPETTY POLICE STATION (CR.NO.173/2006),
ERUMAPETTY, THRISSUR.

2. STATE, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR T.K. KUNHABDULLA

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19.09.2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 5459/2006

DATED THIS THE 19TH DAY OF SEPTEMBER, 2006

O R D E R

The petitioner is the second accused in crime No.173/2006 of Erumapetty Police Station, which is now transferred and re-registered as crime No.219/2006 of Cheruthuruthy Police Station, for the offence punishable under Section 379 IPC and also under Section 21(1) read with Section 4(i) of the Mines and Minerals Regulation and Development Act (M.M.R.D.Act). The occurrence took place on 19.7.2006. The petitioner is before this Court, under Section 438 Cr.P.C.

2. I heard the arguments of both sides. The prosecution submitted that the petitioner is the owner of a lorry, in which the sand was unauthorisedly transported. The counsel for the petitioner submitted that he had been made an accused, only because he is the owner of the lorry.

3. The prosecution opposed the granting of a pre-

arrest order, on the plea that the petitioner is a station rowdy and he had been committing similar offence, in the earlier occasion also.

4. After considering the submissions of both sides, I direct the petitioner to surrender before the Investigating Officer, who is investigating crime No.219/2006 of Cheruthuruthy police station, on 29.9.2006 between 9.30 a.m and 10.00 a.m.

5. The Investigating Officer shall interrogate the petitioner and produce him before the Court below. The learned Magistrate shall consider the application for bail, that may be filed by the petitioner, and pass orders on the same day of the production of the accused, on merit.

The application is disposed of as above.

J.M.JAMES
JUDGE

mrcs